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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,422	09/15/2003	Robert D. Crumpley	PHO178	8099
44088	7590	03/27/2007	EXAMINER	
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			KOCZO JR, MICHAEL	
			ART UNIT	PAPER NUMBER
			3746	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/661,422	CRUMPLEY, ROBERT D.
	Examiner Michael Koczo, Jr.	Art Unit 3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 January 2007.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,4-9 and 11-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 17 is/are allowed.

6) Claim(s) 1,2,4-9,11-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

Applicant's arguments filed on January 22, 2007 have been fully considered but they are not persuasive.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the structure of claim 1 ("said top wall having a non-rectangular shape and said peripheral wall including less than three vertically orientated planar walls") must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2 and 4 to 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites "said top wall having a non-rectangular shape and said peripheral wall including less than three vertically orientated planar walls". There is no basis in the original specification for the structure as claimed. For example, there is no basis in the original specification for a housing having one or two vertically orientated planar walls.

Claims 1, 2 and 4 to 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 8, there is no reference frame for "vertically".

***Claim Rejections - 35 USC § 103***

Claims 1, 2 and 4, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Semak (US 1,647,818) in view of Adahan (US 5,173,033). Semak discloses a housing having a top wall, a bottom wall and peripheral walls. An air compressor is mounted on the bottom wall. An air supply hose 39 is coupled to the compressor and extends through aperture 71 in the peripheral wall. However, Semak does not disclose a peripheral wall having a bottom edge having a peripheral lip thereon for receiving a peripheral edge of the bottom wall. Adahan discloses a housing for a compressor having a peripheral wall having a bottom edge having a peripheral lip thereon for receiving a peripheral edge of the bottom wall (figs. 1 and 6). This structure permits easy removal of the bottom wall and facilitates access to the housing interior. In view of this teaching, it would have been obvious to provide the housing of Semak with a peripheral wall having a bottom edge having a peripheral lip thereon for receiving a peripheral edge of the bottom wall. Characterizing the device as "toy inflating device" is merely a recitation of the intended use of the device. The air compressor of Semak is clearly capable of inflating toys. Whether or not the housing is "other than box-shaped" is merely a matter of design since it only affects the appearance of the housing. It does not affect the operation or structure of the compressor. The specification furthermore does not disclose any structural advantages which could be attributed to the shape of the housing. As disclosed, the shape is merely for purposes of appearance, which is not limiting in an utility application.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, as applied to claim 1 above, and further in view of Idesis et al (US 5,535,808). Idesis et al disclose a pump 34 connected to a hose 35 for inflating an object. A valve 33 is connected to

one end of the hose for controlling the flow of air through the hose. In view of this teaching, it would have been obvious to provide the end of the hose 39 of Semak with a valve for controlling the flow of air through the hose.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over, as applied to claim 5 above, and further in view of Krentz et al (US 6,094,773). Krentz et al disclose a compressor 18 in a housing. A power supply cord 62 extends through one aperture in the peripheral wall, and the hose 52 extends through another aperture in the peripheral wall. This structure simplifies the housing since it eliminates the door 70 of Semak. In view of this teaching, it would have been obvious to extend the power cord and hose of Semak through separate apertures.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, as applied to claim 1 above, and further in view of Armbruster (US 4,483,664). Armbruster discloses a fan contained in a housing. The housing has window with a mesh screen for filtering the inlet air to the fan. In view of this teaching, it would have been obvious to provide the housing of Semak, as previously modified, with a screened window for filtering the intake air.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, as applied to claim 1 above, and further in view of Lotz (US 2,285,215). Lotz discloses a compressor housing 62 having a bottom wall with elastomeric feet 4. The use of elastomeric feet reduces vibration transmission to the supporting surface, and also prevents marring of the support surface. In view of this teaching, it would have been obvious to provide the bottom wall of the housing of Semak with elastomeric feet.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, Idesis et al, Krentz et al, Armbruster and Lotz, for the reasons as applied previously. Applicant has combined features which are well known in the art with no new or unobvious result being attained through their combination.

Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, Idesis et al and Kreutz et al, as applied to claim 11 above, and further in view of Armbruster, for the reasons as applied previously.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, Idesis et al and Kreutz et al, as applied to claim 11 above, and further in view of Lotz, for the reasons as applied previously.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semak in view of Adahan, Idesis et al, Krentz et al and Armbruster, as applied to claim 15 above, and further in view of Lotz, for the reasons as applied previously.

#### *Response to Arguments*

Applicant draws the analogy of a tree stand having fake tree branches, and alleges that the fake tree branches are a structural limitation that is covered by utility protection. That is not necessarily so. It would depend on the disclosure of the invention, and in particular the claims.

Regarding applicant's argument pertaining to claim 7, preventing insects or small animals from entering into the housing is "filtering".

***Allowable Subject Matter***

Claim 17 is allowed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Koczo, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached at 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Koczo, Jr.  
Primary Examiner  
Art Unit 3746